



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RTID 0648-XB763

Fisheries Off West Coast States; West Coast Salmon Fisheries; Standardized Bycatch Reporting Methodology Amendments to the Fishery Management Plans for Coastal Pelagic Species, West Coast Highly Migratory Species, and Pacific Coast Salmon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of availability of fishery management plan amendments; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) submitted to NMFS three fishery management plan (FMP) amendments: Amendment 19 to the FMP for Coastal Pelagic Species (CPS FMP), Amendment 7 to the FMP for the West Coast Highly Migratory Species (HMS FMP), and Amendment 22 to the FMP for Pacific Coast Salmon Fisheries (Salmon FMP) (collectively Amendments). If approved by the Secretary of Commerce (Secretary), these Amendments would add to or modify language in the CPS, HMS, and Salmon FMPs to more clearly describe and align the FMPs with the way bycatch is currently reported in the fisheries managed by the Council. These Amendments are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act); the CPS, HMS, and Salmon FMPs; and other applicable laws.

DATES: Comments on the Amendments must be received by *[insert date 60 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0014, by the following method:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA-NMFS-2022-0014 in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments should specify to which FMP (CPS, HMS, or Salmon) each comment refers. Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of proposed Amendments and the National Environmental Policy Act (NEPA) Categorical Exclusion are available on the NMFS website at *https://www.fisheries.noaa.gov/action/standardized-bycatch-reporting-methodology-amendments-fishery-management-plans-coastal*. Additional documents can be found on the Council’s website at *www.pcouncil.org*.

FOR FURTHER INFORMATION CONTACT: For CPS–Taylor Debevec at (562) 980-4066 or *taylor.debevec@noaa.gov*. For HMS– Celia Barroso at (562) 432-1850 or *celia.barroso@noaa.gov*. For Salmon–Jeromy Jording at (360) 763-2268 or *jeromy.jording@noaa.gov*.

SUPPLEMENTARY INFORMATION

Background

The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary. 16 U.S.C. 1854(a). The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a document in the **Federal Register** announcing that the amendment is available for public review and comment. 16 U.S.C. 1854(a)(1)(B). The Council has submitted the Amendments to the Secretary for review. This notification announces that the proposed Amendments are available for public review and comment.

NMFS manages the CPS, HMS, and salmon fisheries in the Pacific Coast exclusive economic zone under the CPS, HMS, and Salmon FMPs, respectively. The Council prepared these FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 660.

Section 303(a)(11) of the Magnuson-Stevens Act requires that any FMP establish a standardized bycatch reporting methodology (SBRM) to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—(A) minimize bycatch, and (B) minimize the mortality of bycatch that cannot be avoided. (16 U.S.C. 1853(a)(11)).

On January 19, 2017, NMFS published a final rule (82 FR 6317) establishing national guidance regulations at 50 CFR 600.1600 through 50 CFR 600.1610 for compliance with the Magnuson-Stevens Act SBRM requirement (SBRM regulations). The SBRM regulations require regional fishery management councils, in coordination with NMFS, to review their FMPs and make any necessary changes so all FMPs are consistent with the guidance.

The SBRM regulations define an SBRM as a consistent procedure or procedures used to collect, record, and report bycatch data in a fishery managed under an FMP. This information, in conjunction with other relevant sources, is used to assess the amount and type of bycatch occurring in the fishery and inform the development of conservation and management measures to minimize bycatch. The SBRM regulations require that an FMP identify the required procedure that constitutes the SBRM for the fishery and explain how the procedure meets the purpose to collect, record, and report bycatch data.

The SBRM regulations require the Council to explain how each FMP's SBRM meets the purpose described in the national guidelines, based on an analysis of four considerations: (1) Characteristics of bycatch in the fishery, (2) the feasibility of the reporting methodology, (3) the uncertainty of data resulting from the methodology, and (4) how the data will be used to assess the amount and type of bycatch occurring in the fishery (50 CFR 600.1610(a)). The Council must address these considerations when reviewing or establishing an SBRM. The regulations further require that all FMPs be made consistent with the rule in early 2022. The Council therefore undertook a review of its FMPs to ensure they meet this requirement.

At its June 2021 meeting, the Council received a report from the staff, informed by the Council's management teams' review of the SBRM language in the FMPs (SBRM Scoping Report) (<https://www.pcouncil.org/documents/2021/06/c-2-attachment-2-sbrm-scoping-report.pdf>). The SBRM Scoping Report described the SBRM language in each FMP and made initial recommendations on the consistency of the FMPs with the SBRM regulations. The SBRM Scoping Report demonstrated that the Council's FMP for Pacific Coast Groundfish clearly described SBRM for that fishery consistent with the SBRM regulations, and that no modification was needed to address the requirements and guidance in the 2017 rule. However, the SBRM Scoping Report recommended that additions and modifications were needed in the CPS, HMS, and Salmon FMPs to clearly

and accurately describe SBRM for those fisheries, consistent with the SBRM regulations. The SBRM Scoping Report also concluded that it was necessary to address one or more of the considerations, described in the SBRM regulations, in the CPS, HMS and Salmon FMPs. At its September 2021 meeting, the Council adopted, for public review, draft revisions to the CPS, HMS, and Salmon FMPs recommended by the CPS Management Team, HMS Management Team, and Salmon Technical Team, respectively, to address the SBRM regulations (<https://www.pcouncil.org/september-2021-decision-document/>).

The Council took final action at its November 2021 meeting, adopting amendments to the CPS, HMS, and Salmon FMPs to ensure these FMPs are consistent with the SBRM regulations, and that they clearly and accurately describe SBRM for those fisheries. Specific discussion of these FMP amendments are provided below under the appropriate FMP heading.

The Council's Amendments would not add any new reporting requirements and would not change any regulatory requirements. This action would only add to or modify language in the CPS, HMS, and Salmon FMPs to more clearly describe and align with how bycatch is currently reported in the fisheries managed by the Council. Each FMP was considered by the respective Council advisory bodies, which made their recommendations to the Council. Noting that the Council may have taken a different approach to addressing the four factors the SBRM regulations require Councils to address with respect to SBRM for each of the FMPs, a brief background on the rationale for how the respective proposed amendments satisfy the requirements of the SBRM regulations is included below.

CPS FMP Amendment 19

The existing CPS FMP generally describes SBRM and data collection. Additional details on bycatch data collection for CPS FMP fisheries are included in the CPS Stock Assessment and Fishery Evaluation (SAFE) document. However, some details

were lacking on considerations described in the SBRM regulations (*e.g.*, data uncertainty). The Council's proposed amendments seek to ensure the four considerations in the SBRM regulations are clearly described in the FMP. Based on the Council's recommendations, NMFS proposes to create a new section of the FMP (2.6) and add information to other parts of section 2 of the FMP to more clearly describe the SBRM for CPS fisheries, including an evaluation of the four considerations for determining that the SBRM meets the stated purpose of the SBRM regulations.

HMS FMP Amendment 7

The existing HMS FMP generally describes SBRM and data collection. Additional details on bycatch data collection for HMS FMP fisheries are included in Appendix C and the HMS SAFE documents. However, for some of the fisheries, details were lacking on considerations described in the SBRM regulations (*e.g.*, data use and feasibility). The Council's proposed amendments seek to ensure the four considerations in the SBRM regulations are adequately described in the FMP. Based on the Council's recommendations, NMFS proposes to amend Section 6.3 of the HMS FMP to more clearly describe the SBRM for each HMS fishery, including an evaluation of the four considerations for determining that the SBRM meets the stated purpose of the SBRM regulations.

Salmon FMP Amendment 22

The existing Salmon FMP generally describes SBRM and data collection. Additional details on bycatch data collection for Salmon FMP fisheries are included in the Salmon SAFE documents. However, details are lacking on considerations described in the SBRM regulations (*e.g.*, describing scientific uncertainty in procedures used to collect, record, report, and assess salmon). Additionally, the description of SBRM in the salmon FMP lacked some important information about how SBRM is currently implemented in the fishery. The Council's proposed amendment would ensure the four

considerations in the SBRM regulations are adequately addressed in the FMPs. The amendment would also clarify and update the description of how SBRM is implemented in the fishery. NMFS proposes to approve the Council's proposed amendment to Section 3.5 of the Salmon FMP to more clearly describe the SBRM for the fishery, and to address the four considerations for determining that the SBRM meets the stated purpose of the SBRM regulations.

All comments received by the end of the comment period on the Amendments (see **DATES** and **ADDRESSES** above) will be considered in the Secretary's decision to approve, disapprove, or partially approve this amendment. To be considered in this decision, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date. Additionally, each comment should specify to which FMP the comment refers.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 7, 2022.

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